

RESOLUTION NO. 2010.64

RESOLUTION AUTHORIZING THE SALE AND ISSUANCE OF CITY OF TEMPE, ARIZONA GENERAL OBLIGATION BONDS, SERIES 2010 IN ONE OR MORE SERIES; PROVIDING FOR THE ANNUAL LEVY OF A TAX FOR THE PAYMENT OF THE SERIES 2010 BONDS; DELEGATING THE AUTHORITY TO APPROVE CERTAIN TERMS, COVENANTS AND CONDITIONS REGARDING THE ISSUANCE OF THE SERIES 2010 BONDS; APPOINTING A REGISTRAR, TRANSFER AGENT AND PAYING AGENT FOR THE SERIES 2010 BONDS; APPROVING THE FORM OF CERTAIN DOCUMENTS AND AUTHORIZING COMPLETION, EXECUTION AND DELIVERY THEREOF; DELEGATING THE AUTHORITY TO APPROVE AND DEEM FINAL A FORM OF OFFICIAL STATEMENT; RATIFYING ALL ACTIONS TAKEN OR TO BE TAKEN TO FURTHER THIS RESOLUTION; AUTHORIZING ELECTIONS TO BE MADE UNDER THE AMERICAN RECOVERY & REINVESTMENT ACT OF 2009; AND RESCINDING RESOLUTION NO. 2010.37.

WHEREAS, pursuant to special bond elections held in and for the City of Tempe, Arizona (the "City"), on May 16, 2006 and November 4, 2008 (the "Elections"), the issuance of general obligation bonds has been approved;

WHEREAS, the City Council of the City (the "City Council") intends to issue bonds in the aggregate principal amount of not to exceed \$45,165,000 (the "Series 2010 Bonds") in one or more series as tax-exempt and/or taxable bonds designated as "Qualified Build America Bonds (Direct Pay)" for the purpose of making water/wastewater improvements, public safety police/fire improvements, community services/parking improvements and street improvements in accordance with the authority granted at the Elections and for the purpose of paying a portion of the costs of issuance of the Series 2010 Bonds; and

WHEREAS, pursuant to Resolution No. 2010.37 adopted on April 22, 2010, the City Council ordered the Series 2010 Bonds to be sold by an on-line bidding process pursuant to Title 35, Chapter 3, Article 3, Arizona Revised Statutes, as amended; and

WHEREAS, effective May 3, 2010, Title 35, Chapter 3, Article 3, Arizona Revised Statutes, as amended (Chapter 215, Laws 2010, effective May 3, 2010) authorizes the City to sell the Series 2010 Bonds by negotiated sale on the terms the City Council deems to be the best then available may bear interest payable at such times as shall be determined by the City Council; and

WHEREAS, it is in order for the City Council to adopt a resolution rescinding Resolution No. 2010.37; and

WHEREAS, the City Council shall receive a proposal for the purchase of the Series 2010 Bonds from RBC Capital Markets Corporation (the "Underwriter") in the form of a bond purchase agreement now on file with the City Clerk and the City desires that the Series 2010 Bonds be sold through negotiation pursuant to A.R.S. § 35-457(C) to the Underwriter on the terms set forth in this resolution; and

WHEREAS, by this resolution, the City Council shall approve such form of bond purchase agreement and order the proposed bond purchase agreement to be completed with the final terms of the Series 2010 Bonds and entered into between the City and the Underwriter when the final terms of the sale have been determined for the sale of the Series 2010 Bonds to the Underwriter (as so completed, the "Bond Purchase Agreement"); and

WHEREAS, within and by the parameters set forth in this resolution, the City Council shall authorize the sale, execution and issuance of the Series 2010 Bonds and their delivery to the Underwriter in accordance with the Bond Purchase Agreement;

NOW, THEREFORE, IT IS RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TEMPE, ARIZONA, AS FOLLOWS:

Section 1. Rescission of Resolution No. 2010.37. This City Council hereby rescinds Resolution No. 2010.37 adopted by the City Council on April 22, 2010, which authorized ordering the sale of the Series 2010 Bonds by an on-line bidding process pursuant to Title 35, Chapter 3, Article 3, Arizona Revised Statutes, as amended.

Section 2. Authorization. This City Council hereby authorizes the Series 2010 Bonds to be sold and issued by negotiated sale pursuant to A.R.S. § 35-457(C) in an aggregate principal amount of not to exceed \$45,165,000 in one or more series as tax-exempt (the "Tax-Exempt Bonds") and/or taxable bonds designated as "Qualified Build America Bonds (Direct Pay)" (the "Build America Bonds"). If sold as all Tax-Exempt Bonds, the Series 2010 Bonds shall be designated City of Tempe, Arizona General Obligation Bonds, Series 2010. If sold as Build America Bonds, the Series 2010 Bonds will be designated the City of Tempe, Arizona Taxable General Obligations Bonds (Qualified Build America Bonds – Direct Pay), Series 2010. If sold as both Tax-Exempt Bonds and Build America Bonds, the Series 2010 Bonds shall be designated the City of Tempe, Arizona, General Obligation Bonds, Series 2010 comprised of the Tax-Exempt Series 2010A Bonds and the Taxable Series 2010B Bonds. The Series 2010 Bonds shall be issued and sold in accordance with the provisions of this resolution and delivered against payment therefor by the Underwriter.

Section 3. Terms.

A. **Series 2010 Bonds.** The Series 2010 Bonds will be dated as of June 1, 2010 or such later date as set forth in the Bond Purchase Agreement, shall mature on July 1 in some or all of the years 2011 to 2030, inclusive, and shall bear interest from their date to the maturity or earlier redemption of each of the Series 2010 Bonds, provided that the yield (as determined pursuant to the regulations of the Internal Revenue Code of 1986, as amended) on all of the Series 2010 Bonds shall not exceed 6.0%. In the case of any Build America Bonds, the yield shall be calculated by reducing the interest paid by the amount of the federal subsidy allowed for such bonds. No rates shall exceed twelve percent (12%) per annum, the maximum rate authorized at the Elections.

The principal amount of each series, the principal amount of each series maturing in each year, the interest rates applicable to each maturity, the optional, mandatory and

extraordinary optional redemption, if any, provisions and any other final terms of the Series 2010 Bonds shall be as set forth in the Bond Purchase Agreement and approved by the Mayor or any other member of the City Council or the Financial Services Manager of the City, and such approval shall be evidenced by the execution and delivery of the Bond Purchase Agreement. The Series 2010 Bonds shall be issued in fully registered Book-Entry-Only form in denominations equal to the respective year's and series' maturity amount. If the Book-Entry-Only System is discontinued, the Series 2010 Bonds shall be in the denominations of \$5,000 each or integral multiples thereof. Interest on the Series 2010 Bonds shall be payable semiannually on each January 1 and July 1 (each an "Interest Payment Date") during the term of the Series 2010 Bonds, commencing January 1, 2011 (or on a later date as set forth in the Bond Purchase Agreement).

B. Book-Entry-Only System. So long as the Series 2010 Bonds are administered under the book-entry-only system (the "Book-Entry-Only System") described in the Letter of Representations which is hereinafter defined, interest payments and principal payments that are part of periodic principal and interest payments shall be paid to Cede & Co. or its registered assigns in same-day funds no later than the time established by The Depository Trust Company ("DTC") on each interest or principal payment date (or in accordance with then existing arrangements between the City and DTC). The City has previously entered into an agreement (the "Letter of Representations") with DTC in connection with the issuance of the City's bonds including the Series 2010 Bonds and, while the Letter of Representations is in effect, the procedures established therein shall apply to the Series 2010 Bonds.

C. Registration. If the Book-Entry-Only System is discontinued, the Registrar's (as defined hereafter) registration books shall show the registered owners of the Series 2010 Bonds (collectively, the owner or owners of the Series 2010 Bonds as shown on the Registrar's (as defined below) registration books shall be referred to as "Owner" or "Owners"). While the Series 2010 Bonds are subject to the Book-Entry-Only System, the Series 2010 Bonds shall be registered in the name of Cede & Co., or its registered assigns. The Series 2010 Bonds shall be administered by the Registrar in a manner which assures against double issuance and provides a system of transfer of ownership on the books of the Registrar in the manner set forth in the Series 2010 Bonds.

D. Payment. If the Book-Entry-Only System is discontinued, interest on the Series 2010 Bonds shall be payable on each Interest Payment Date by check mailed to the Owner thereof at the Owner's address all as shown on the registration books maintained by the Registrar as of the close of business of the Registrar on the fifteenth (15th) day of the month preceding an Interest Payment Date (the "Record Date").

If the Book-Entry-Only System is discontinued, principal of the Series 2010 Bonds shall be payable, when due, only upon presentation and surrender of the Series 2010 Bond at the designated corporate trust office of the Paying Agent (as defined hereafter). Upon written request of a registered Owner of at least \$1,000,000 in principal amount of Series 2010 Bonds not less than twenty (20) days prior to an Interest Payment Date, all payments of interest and, if adequate provision for surrender is made, principal shall be paid by wire transfer in immediately available funds to an account within the United States of America designated by such Owner.

Notwithstanding any other provision of this resolution, payment of principal of and interest on any Series 2010 Bond that is held by a securities depository or that is subject to the Book-Entry-Only System may be paid by the Paying Agent by wire transfer in "same day funds".

E. Other Terms. The Series 2010 Bonds shall have such other terms and provisions as are set forth in Exhibit A and/or Exhibit B hereto, as applicable, and shall be sold under the terms and conditions set forth in the Bond Purchase Agreement.

Section 4. Prior Redemption.

A. Optional Redemption. The Series 2010 Bonds may be subject to optional redemption as set forth in the Bond Purchase Agreement.

B. Mandatory Redemption. The Series 2010 Bonds may be subject to mandatory redemption as set forth in the Bond Purchase Agreement.

Whenever the Series 2010 Bonds subject to mandatory redemption are purchased, redeemed (other than pursuant to mandatory redemption) or delivered by the City to the Registrar for cancellation, the principal amount of the Series 2010 Bonds so retired shall satisfy and be credited against the mandatory redemption requirements for such Series 2010 Bonds for such years as the City may direct.

C. Extraordinary Optional Redemption. The Build America Bonds may be subject to extraordinary optional redemption as set forth in the Bond Purchase Agreement.

D. Notice of Redemption. So long as the Book-Entry-Only System is in effect, notice of redemption will be sent solely to DTC by electronic means of transmission. The Registrar will notify DTC at least two (2) business days prior to a date not less than twenty (20) calendar days and no more than sixty (60) calendar days prior to the redemption date, or in the case of an advance refunding, the date that the proceeds are deposited into escrow (and, in the case of an advance refunding, an additional notice will be provided no later than twenty (20) calendar days prior to the refunding date). If the Book-Entry-Only System is discontinued, notice of redemption of any Series 2010 Bond shall be filed with the Registrar and mailed to the Owner thereof at the address shown on the books of the Registrar not more than sixty (60) nor less than thirty (30) days prior to the redemption date. Notice of redemption may be given to any securities depository by mail, facsimile, wire or other generally accepted means of transmission of such notices. Failure to properly give notice of redemption shall not affect the redemption of any Series 2010 Bond for which notice was properly given. Notice of redemption will also be sent by first class mail, facsimile or other generally accepted electronic means of transmission to the Municipal Securities Rulemaking Board (the "MSRB"), currently through the MSRB's Electronic Municipal Market Access system.

If moneys for the payment of the redemption price and accrued interest are not held in separate accounts by the City or by a Paying Agent prior to sending the notice of redemption, such redemption shall be conditional on such moneys being so held on the date set for redemption and if not so held by such date, the redemption shall be cancelled and be of no force and effect.

E. Effect of Call for Redemption. On the date designated for redemption by notice given as herein provided, the Series 2010 Bonds so called for redemption shall become and be due and payable at the redemption price provided for redemption of such Series 2010 Bonds on such date, and, if moneys for payment of the redemption price are held in separate accounts by the Paying Agent, interest on such Series 2010 Bonds or portions of such Series 2010 Bonds so called for redemption shall cease to accrue, such Series 2010 Bonds shall cease to be entitled to any benefit or security hereunder and the Owners of such Series 2010 Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof and such Series 2010 Bonds shall be deemed paid and no longer outstanding.

F. Redemption of Less Than All of a Series 2010 Bond. The City may redeem an amount which is included in a Series 2010 Bond in the denomination in excess of, but divisible by, \$5,000. In that event, the Owner shall submit the Series 2010 Bond for partial redemption and the Paying Agent shall make such partial payment and the Registrar shall cause to be issued a new Series 2010 Bond in a principal amount equal to the unpaid amount remaining on such Series 2010 Bond after the redemption to be authenticated and delivered to the Owner thereof.

Section 5. Security. For the purpose of paying the principal of, interest on, and costs of administration of the registration and payment of, the Series 2010 Bonds there shall be levied on all the taxable property in the City a continuing, direct, annual, ad valorem tax, without limit as to rate or amount, sufficient to pay all such principal, interest and administration costs on the Series 2010 Bonds as the same becomes due, such taxes to be levied, assessed and collected at the same time and in the same manner as other taxes are levied, assessed and collected. The proceeds of the taxes shall be kept in a special fund and shall be used only for the purpose for which collected.

Section 6. Use of Proceeds. The net proceeds from the sale of the Series 2010 Bonds, after payment of the expenses of issuance, shall be set aside and deposited by the Financial Services Manager of the City in separate accounts. The use of proceeds and the breakdown of the maturity schedule by purpose will be set forth in the Certificate of the Financial Services Manager of the City as to Use of Proceeds of the Series 2010 Bonds and will be charged against the City's 20% debt limit and used for the purposes set forth in the Elections. The Financial Services Manager of the City is hereby authorized and directed to cause the Certificate of the Financial Services Manager of the City as to Use of Proceeds of the Series 2010 Bonds to be completed and executed.

Section 7. Form of Series 2010 Bonds; Book-Entry-Only System.

A. Form of Series 2010 Bonds. The Series 2010 Bonds shall be in substantially the form of Exhibit A and/or Exhibit B, as applicable, attached hereto and incorporated by reference herein, with such necessary and appropriate omissions, insertions and variations as are permitted or required hereby or by the Bond Purchase Agreement and are approved by those officers executing the Series 2010 Bonds and execution thereof by such officers shall constitute conclusive evidence of such approval.

The Series 2010 Bonds may have notations, legends or endorsements required by law, securities exchange rule or usage. Each Series 2010 Bond shall be dated the date of its authentication and registration.

The Series 2010 Bonds are prohibited from being converted to coupon or bearer Series 2010 Bonds without the consent of the City Council and approval of bond counsel. If the Book-Entry-Only System is discontinued, the Series 2010 Bonds shall be reissued and transferred in the form of the Series 2010 Bond to be prepared at that time.

Section 8. Execution of Series 2010 Bonds and Other Documents.

A. **Series 2010 Bonds.** The Series 2010 Bonds shall be executed for and on behalf of the City by the Mayor and attested by the City Clerk by their manual or facsimile signatures and the City seal may be mechanically reproduced on the Series 2010 Bonds. If the signatures are affixed or imprinted by facsimile, the Mayor and City Clerk shall execute a certificate adopting as their signatures the facsimile signatures appearing on the Series 2010 Bonds.

If an officer whose signature is on a Series 2010 Bond no longer holds that office at the time the Series 2010 Bond is authenticated and registered, the Series 2010 Bond shall nevertheless be valid.

A Series 2010 Bond shall not be valid or binding until authenticated by the manual signature of an authorized representative of the Registrar. The signature shall be conclusive evidence that the Series 2010 Bond has been authenticated and issued under this resolution.

B. **Bond Purchase Agreement.** The form of the Bond Purchase Agreement, in substantially the form submitted to and on file with the City Clerk, is hereby approved upon completion as set forth in Section 9 below. The Mayor, any member of the City Council or the Financial Services Manager of the City are hereby authorized and directed to cause the Bond Purchase Agreement to be completed and executed as set forth in Section 9 below.

C. **Registrar Contract.** The form of registrar's contract concerning duties of the Registrar and the Paying Agent for the Series 2010 Bonds, in substantially the form submitted to and on file with the City Clerk, is hereby approved and the Mayor, any member of the City Council, or the Manager of the City is hereby directed to execute such contract on behalf of the City with such necessary and appropriate omissions, insertions and variations as are permitted or required hereby and are approved by those officers executing the documents and cause such respective contract to be delivered. Execution by any such officer shall constitute conclusive evidence of such approval.

D. **Continuing Disclosure Undertaking.** The form of continuing disclosure certificate, in substantially the form submitted to and on file with the City Clerk, is hereby approved. The Financial Services Manager of the City is hereby authorized and directed to prepare, execute and deliver such certificate on behalf of the City.

E. **Official Statement.** A Preliminary Official Statement has been prepared

with respect to the issuance and sale of the Series 2010 Bonds and is on file with the City Clerk. A copy of the Preliminary Official Statement has been delivered to the City Council on or prior to the date hereof. The Preliminary Official Statement is hereby deemed final as of its date in accordance with the Securities and Exchange Commission Rule 15c2-12 (the "Rule") with such omissions as are permitted thereunder; the Mayor, any member of the City Council, the Financial Services Manager of the City and the City Clerk will take all necessary action as may be required by it to otherwise comply with the provisions of the Rule. The Mayor, Financial Services Manager of the City and City Clerk are hereby authorized and directed to prepare a Final Official Statement in substantially the form of the Preliminary Official Statement with such additions, deletions and modifications as they shall deem necessary.

Section 9. Mutilated, Lost or Destroyed Series 2010 Bonds. In case any Series 2010 Bond becomes mutilated or destroyed or lost, the City shall cause to be executed and delivered a new Series 2010 Bond of like date, tenor and series, if applicable, in exchange and substitution for and upon the cancellation of such mutilated Series 2010 Bond or in lieu of and in substitution for such Series 2010 Bond destroyed or lost, upon the registered Owner's paying the reasonable expenses and charges of the City in connection therewith and, in the case of the Series 2010 Bond destroyed or lost, filing with the City Clerk by the registered Owner evidence satisfactory to the City that such Series 2010 Bond was destroyed or lost, and furnishing the City with a sufficient indemnity bond pursuant to A.R.S. § 47-8405.

Section 10. Acceptance of Offer; Sale of Bonds; Bond Purchase Agreement Approval. The Underwriter proposes to purchase the Series 2010 Bonds pursuant to the Bond Purchase Agreement submitted to and on file with the City Clerk. Such proposal as supplemented by the final terms as contemplated by this resolution is hereby accepted. When the final terms of the Series 2010 Bonds are known, the Bond Purchase Agreement shall be finalized. The Mayor, any member of the City Council or the Financial Services Manager of the City are authorized and directed to cause the Bond Purchase Agreement to be completed and executed; provided, however, that the parameters of this resolution shall govern the Bond Purchase Agreement and provided further that the Mayor, any member of the City Council or the Financial Services Manager of the City are not authorized to insert in the Bond Purchase Agreement any terms or conditions which would be contrary to this resolution. Upon the completion, execution and delivery of the Bond Purchase Agreement, the Series 2010 Bonds are ordered sold to the Underwriter pursuant to the Bond Purchase Agreement. The execution and delivery of the Bond Purchase Agreement as completed shall be conclusive evidence of such approval of the final terms and provisions.

The Financial Services Manager of the City is hereby authorized and directed to receive payment for the Series 2010 Bonds in accordance with the terms of the Bond Purchase Agreement. Any other provision of this resolution to the contrary notwithstanding, no premium on the Series 2010 Bonds shall exceed the net premium permitted by A.R.S. § 35-457. The Build America Bonds shall not be sold at reoffering prices exceeding the par amount of the maturity by more than 0.25% multiplied by the number of complete years to the earlier of the maturity date or the first optional redemption date of the maturity of the Build America Bonds.

Section 11. Registrar and Paying Agent. The City will maintain with the Registrar an office or agency where Series 2010 Bonds may be presented for registration of transfer and an office or agency with the Paying Agent where Series 2010 Bonds may be presented

for payment. The City may appoint one or more co-registrars or one or more additional paying agents. The Registrar and Paying Agent may make reasonable rules and set reasonable requirements for their respective functions with respect to the Owners of the Series 2010 Bonds.

Initially, The Bank of New York Mellon Trust Company, N.A. will act as the Registrar and the Paying Agent with respect to the Series 2010 Bonds. The City may change the Registrar or the Paying Agent without notice to or consent of Owners of the Series 2010 Bonds and the City may act in any such capacity.

The contract for Registrar's and Paying Agent's services is hereby approved in substantially the form on file with the City Clerk to provide for payment of Registrar's services. The Mayor and Financial Services Manager of the City are hereby authorized and directed to execute the contract with the Registrar and the Paying Agent.

Each Paying Agent will be required to agree in writing that the Paying Agent will hold in trust for the benefit of the Owners of the Series 2010 Bonds all moneys held by the Paying Agent for the payment of principal of and interest on the Series 2010 Bonds.

The Registrar may appoint an authenticating agent acceptable to the City to authenticate Series 2010 Bonds. An authenticating agent may authenticate Series 2010 Bonds whenever the Registrar may do so. Each reference in this resolution to authentication by the Registrar includes authentication by an authenticating agent acting on behalf and in the name of the Registrar and subject to the Registrar's direction.

The Registrar shall keep a register of the Series 2010 Bonds, the registered Owners of the Series 2010 Bonds and of transfer of the Series 2010 Bonds. When Series 2010 Bonds are presented to the Registrar or a co-registrar with a request to register transfer, the Registrar will register the transfer on the registration books if its requirements for transfer are met and will authenticate and deliver one or more Series 2010 Bonds registered in the name of the transferee of the same series, principal amount, maturity and rate of interest as the surrendered Series 2010 Bonds. The Record Date for the Series 2010 Bonds will be the close of business of the Registrar on the fifteenth day of the month preceding an interest payment date, or if such date is a Saturday, Sunday or legal holiday, the previous business day. Series 2010 Bonds presented to the Registrar for transfer after the close of business on the Record Date and before the close of business on the next subsequent interest payment date will be registered in the name of the transferee but the interest payment will be made to the registered Owners shown on the books of the Registrar as of the close of business on the Record Date. The Registrar will charge the Owner for every such transfer an amount sufficient to reimburse them for any transfer fee, tax or other governmental charge required to be paid with respect to such transfer, and may require that such transfer fee, tax or governmental charge be paid before any such new Series 2010 Bond or Series 2010 Bonds shall be delivered.

The Registrar shall authenticate Series 2010 Bonds for original issue up to \$45,165,000 in aggregate principal amount upon the written request of the Financial Services Manager of the City. The aggregate principal amount of Series 2010 Bonds outstanding at any time may not exceed that amount except for replacement Series 2010 Bonds as to which the requirements of the Registrar and the City are met.

So long as the Series 2010 Bonds are in book-entry-only form, the City, the Registrar and the Paying Agent shall only recognize DTC or its nominee as the registered Owner of all of the Series 2010 Bonds for all purposes, including payments, notices and voting.

Section 12. Resolution a Contract. This resolution shall constitute a contract between the City and the registered Owners of the Series 2010 Bonds and shall not be repealed or amended in any manner which would impair, impede or lessen the rights of the registered Owners of the Series 2010 Bonds then outstanding. The performance by the Mayor, City Council and Financial Services Manager of the City of the obligations in this resolution and in the Series 2010 Bonds and the Bond Purchase Agreement is hereby authorized and approved.

Section 13. Severability. If any section, paragraph, subdivision, sentence, clause or phrase of this resolution is for any reason held to be illegal or unenforceable, such decision will not affect the validity of the remaining portions of this resolution. The Mayor and City Council hereby declare that the City would have adopted this resolution and each and every other section, paragraph, subdivision, sentence, clause or phrase hereof and authorized the issuance of the Series 2010 Bonds pursuant hereto irrespective of the fact that any one or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this resolution may be held illegal, invalid or unenforceable.

Section 14. Ratification of Actions. All actions of the officers and agents of the City which conform to the purposes and intent of this resolution and which further the issuance and sale of the Series 2010 Bonds as contemplated by this resolution whether heretofore or hereafter taken shall be and are hereby ratified, confirmed and approved. Any change made in the Bond Purchase Agreement which does not conform to the prior order of this Mayor and Council is hereby ratified. The proper officers and agents of the City are hereby authorized and directed to do all such acts and things and to execute and deliver all such documents on behalf of the City as may be necessary to carry out the terms and intent of this resolution.

Section 15. Qualified Tax-Exempt Obligations. The Series 2010 Bonds are not "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code.

Section 16. Tax Covenants for Tax-Exempt Bonds. In consideration of the purchase and acceptance of the Tax-Exempt Bonds by the Owners thereof and, as authorized by Arizona Revised Statutes, Title 35, Chapter 3, Article 7, and in consideration of retaining the exclusion of interest income on such Tax-Exempt Bonds from gross income for federal income tax purposes, the City covenants with the Owners from time to time of such Tax-Exempt Bonds to neither take nor fail to take any action which action or failure to act is within its power and authority and would result in interest on such Tax-Exempt Bonds becoming subject to inclusion in gross income for federal income taxes.

The City agrees that it will comply with such requirements as in the opinion of nationally recognized bond counsel are necessary to prevent interest on such Tax-Exempt Bonds becoming subject to inclusion in gross income for federal income tax purposes. Such requirements may include but are not limited to making further specific covenants; making truthful certifications and representations and giving necessary assurances; complying with all

representations, covenants and assurances contained in certificates or agreements to be prepared by bond counsel; to pay to the United States of America any required amounts representing rebates of arbitrage profits relating to such Tax-Exempt Bonds; filing forms, statements and supporting documents as may be required under the federal tax laws; limiting the term of and yield on investments made with moneys relating to such Tax-Exempt Bonds; and limiting the use of the proceeds of such Tax-Exempt Bonds and property financed thereby.

Section 17. Election Under American Recovery and Reinvestment Act. The Build America Bonds shall be qualified and sold as "Qualified Build America Bonds (Direct Pay)". The Mayor, any member of the Council and the Financial Services Manager of the City are authorized to take any action, make any modification of the documents, enter into any agreements, make any election or certifications, modify the designated name of the Build America Bonds and pay any costs necessary to provide for, or facilitate the issue and sale of the Build America Bonds in such manner, and to comply with the requirements of the Code and the terms of the Build America Bonds and any agreement related thereto. Section 15 – Qualified Tax-Exempt Obligations, and Section 16 – Tax Covenants for Tax-Exempt Bonds hereof are of no force and effect to the Build America Bonds and are not applicable to the Build America Bonds.

Section 18. Maintain Qualified Build America Bond Status. The Mayor, any member of the Council, the Manager or the Financial Services Manager of the City and all other officers and agents of the City are authorized to take any action within its power and authority which would, other than as a result of the application of Section 54AA of the Code, prevent the interest income on the Build America Bonds from becoming includable in gross income for federal income tax purposes under either laws existing on the date of issuance of the Build America Bonds or such laws as they may be modified or amended. To so comply, the Mayor, any member of the Council, the Financial Services Manager of the City and all other officers and agents of the City are authorized to comply with such requirements and are authorized to take any such action(s) as in the opinion of nationally recognized bond counsel are necessary to prevent interest income on the Build America Bonds from becoming includable in gross income for federal income tax purposes, other than as a result of the application of Section 54AA of the Code. Such requirements may include but are not limited to making truthful certifications and representations and giving necessary assurances; complying with all representations, covenants and assurances contained in certificates or agreements to be prepared by bond counsel; to pay to the United States of America any required amounts representing rebates of arbitrage profits relating to the Build America Bonds; filing forms, statements and supporting documents as may be required under the federal tax laws; limiting the term of and yield on investments made with proceeds of the Build America Bonds; and limiting the use of proceeds of the Build America Bonds and property financed thereby.

Additionally to so comply, if applicable, the Mayor, any member of the Council, the Financial Services Manager of the City and all other officers and agents of the City are authorized to take all action and do all things necessary to continue to qualify the Build America Bonds pursuant to Sections 54AA and 6431 of the Code and to receive from the United States the direct payment of the tax credit.

PASSED AND ADOPTED by the Mayor and Council of the City of Tempe, Arizona, on May 20, 2010.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

(Tax-Exempt Bond)

(Form of Book-Entry-Only Bond)

Number: R-_____

Denomination: \$_____

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Registrar (or any successor registrar) for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), any transfer, pledge, or other use hereof for value or otherwise by or to any person is wrongful inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

CITY OF TEMPE, ARIZONA GENERAL OBLIGATION BOND, SERIES 2010A

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Dated Date</u>	<u>CUSIP</u>
	July 1, ____	_____, 2010	879709____

Registered Owner: CEDE & CO.

Principal Amount: _____ AND NO/100 DOLLARS

CITY OF TEMPE, ARIZONA (the "City"), for value received, hereby promises to pay to the registered owner identified above, or registered assigns as provided herein, on the maturity date set forth above, the principal amount set forth above, and to pay interest on the unpaid principal amount at the interest rate shown above.

Certain Series 2010A Bonds of the series of which this bond is one are subject to call for redemption prior to maturity in accordance with the terms set forth below.

[Optional Redemption.]

[Mandatory Redemption.]

Interest is payable on January 1 and July 1 of each year commencing [January 1, 2011,] and will accrue from the most recent date to which interest has been paid, or, if no interest has been paid,

from the original dated date set forth above. Interest will be computed on the basis of a year comprised of 360 days consisting of twelve (12) months of thirty (30) days each.

Principal of and interest on this Series 2010A Bond are payable in lawful money of the United States of America. Interest payments and principal payments that are part of periodic principal and interest payments shall be received by Cede & Co., as nominee of DTC, or its registered assigns in same-day funds no later than the time established by DTC on each interest or principal payment date in accordance with existing arrangements between the City and DTC.

It is hereby certified and recited that all conditions, acts and things required by the Constitution and laws of the State of Arizona to exist, to occur and to be performed precedent to and in the issuance of this Series 2010A Bond exist, have occurred and have been performed and that the series of bonds of which this is one, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and laws of the State of Arizona, and that due provision has been made for the levy and collection of a direct, annual, ad valorem tax upon all of the taxable property in the City for the payment of this Series 2010A Bond and of the interest hereon as each becomes due.

This Series 2010A Bond is one of a series of general obligation bonds in the aggregate principal amount of \$_____ of like tenor except as to amount, maturity date, redemption provisions, interest rate and number, issued by the City to provide funds to make those certain acquisitions and public improvements approved by a majority vote of qualified electors voting at elections duly called and held in and for the City, pursuant to a resolution of the Mayor and Council of the City duly adopted prior to the issuance hereof (the "Resolution") and pursuant to the Constitution and laws of the State of Arizona relative to the issuance and sale of general obligation bonds, and all amendments thereto, and all other laws of the State of Arizona thereunto enabling.

For the punctual payment of this Series 2010A Bond and the interest hereon and for the levy and collection of ad valorem taxes on all taxable property within the City sufficient for that purpose, the full faith and credit of the City are hereby irrevocably pledged.

[Series 2010A Bonds maturing on or before July 1, 2020, are not subject to call for redemption prior to maturity. Series 2010A Bonds maturing on or after July 1, 2021, are subject to call for redemption prior to maturity, at the option of the City, in whole or in part, on any date on or after July 1, 2020, by the payment of a redemption price equal to the principal amount of each Series 2010A Bond called for redemption plus interest accrued to the date fixed for redemption, but without premium.]

So long as the book-entry-only system is in effect, notice of redemption will be sent solely to DTC by electronic means of transmission. The registrar will notify DTC at least two (2) business days prior to a date not less than twenty (20) calendar days and no more than sixty (60) calendar days prior to the redemption date, or in the case of an advance refunding, the date that the proceeds are deposited into escrow (and, in the case of an advance refunding, an additional notice will be provided no later than twenty (20) calendar days prior to the refunding date). If the book-entry-only system is discontinued, notice of redemption of any Series 2010A Bond shall be filed with the registrar and mailed to the registered owner of the Series 2010A Bond or Series 2010A Bonds being redeemed at the address shown on the books of the registrar not more than sixty (60) nor less than thirty (30) days prior to the redemption date. Notice of redemption may be given to any securities depository by mail, facsimile, wire or other generally accepted means of transmission of such notices. Failure to properly give notice of redemption shall not affect the redemption of any Series 2010 Bond for which notice was properly given. Notice of redemption will also be sent by first class mail, facsimile or other generally accepted means of transmission to the Municipal Securities Rulemaking Board (the "MSRB"), currently through the MSRB's Electronic Municipal Market Access system.

The registrar and paying agent on the original issue date is The Bank of New York Mellon Trust Company, N.A. The registrar or paying agent may be changed by the City without notice.

So long as the book-entry-only system is in effect, this Series 2010A Bond is non-transferable. If the book-entry-only system is discontinued, this Series 2010A Bond is transferable by the registered owner in person or by attorney duly authorized in writing at the designated office of the registrar, which on the original issue date is the corporate trust office of The Bank of New York Mellon Trust Company, N.A. upon surrender and cancellation of this Series 2010A Bond. Series 2010A Bonds of this issue will be issued only in fully registered form in the denomination of \$5,000 of principal or integral multiples thereof.

The City, the registrar and the paying agent may treat the registered owner of this Series 2010A Bond as the absolute owner for the purpose of receiving principal and interest and for all other purposes and none of them shall be affected by any notice to the contrary.

The City has caused this Series 2010A Bond to be executed by the Mayor and attested by the City Clerk, which signatures may be facsimile signatures. This Series 2010A Bond is not valid or binding upon the City without the manually affixed signature of an authorized representative of the registrar. This Series 2010A Bond is prohibited from being issued in coupon or bearer form without the consent of the City and the occurrence of certain other conditions.

CITY OF TEMPE, ARIZONA

Mayor

ATTEST:

City Clerk

DATE OF AUTHENTICATION AND REGISTRATION:_____.

AUTHENTICATION CERTIFICATE

This Series 2010A Bond is one of the City of Tempe, Arizona, General Obligation Bonds, Series 2010A, described in the Resolution.

The Bank of New York Mellon Trust
Company, N.A., as Registrar

Authorized Representative

FORM OF ASSIGNMENT

The following abbreviations, when used in the inscription on the face of this Series 2010A Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by the entireties

JT TEN - as joint tenants with right of survivorship
and not as tenants in common

UNIF GIFT/TRANS MIN ACT-_____ Custodian_____
(Cust) (Minor)

under Uniform Gifts/Transfers to Minors Act _____
(State)

Additional abbreviations may also be used though not in list above

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Name and Address of Transferee)

the within Series 2010A Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney to transfer the within Series 2010A Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated _____

Note: The signature(s) on this assignment must correspond with the name(s) as written on the within registered Series 2010A Bond in every particular without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

Firm or Bank

Authorized Signature

Signature guarantee should be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other program acceptable to the Registrar

ALL FEES AND TRANSFER COSTS SHALL BE PAID BY THE TRANSFEROR

EXHIBIT B

(Build America Bond)

(Form of Book-Entry-Only Bond)

Number: R-_____

Denomination: \$_____

Unless this Bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Registrar (or any successor registrar) for registration of transfer, exchange, or payment, and any Bond issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), any transfer, pledge, or other use hereof for value or otherwise by or to any person is wrongful inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

**CITY OF TEMPE, ARIZONA
TAXABLE GENERAL OBLIGATION BOND
SERIES 2010B
(QUALIFIED BUILD AMERICA BOND – DIRECT PAY)**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Dated Date</u>	<u>CUSIP</u>
	July 1, ____	_____, 2010	879709____

Registered Owner: CEDE & CO.

Principal Amount: _____ AND NO/100 DOLLARS

CITY OF TEMPE, ARIZONA (the "City"), for value received, hereby promises to pay to the registered owner identified above, or registered assigns as provided herein, on the maturity date set forth above, the principal amount set forth above, and to pay interest on the unpaid principal amount at the interest rate shown above.

Certain Taxable Series 2010B Bonds of the series of which this bond is one are subject to call for redemption prior to maturity in accordance with the terms set forth below.

[Optional Redemption.]

[Mandatory Redemption.]

[Extraordinary Optional Redemption.]

Interest is payable on January 1 and July 1 of each year commencing [January 1, 2011,] and will accrue from the most recent date to which interest has been paid, or, if no interest has been paid, from the original dated date set forth above. Interest will be computed on the basis of a year comprised of 360 days consisting of twelve (12) months of thirty (30) days each.

Principal of and interest on this bond are payable in lawful money of the United States of America. Interest payments and principal payments that are part of periodic principal and interest payments shall be received by Cede & Co., as nominee of DTC, or its registered assigns in same-day funds no later than the time established by DTC on each interest or principal payment date in accordance with existing arrangements between the City and DTC.

It is hereby certified and recited that all conditions, acts and things required by the Constitution and laws of the State of Arizona to exist, to occur and to be performed precedent to and in the issuance of this Taxable Series 2010B Bond exist, have occurred and have been performed and that the series of bonds of which this is one, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and laws of the State of Arizona, and that due provision has been made for the levy and collection of a direct, annual, ad valorem tax upon all of the taxable property in the City for the payment of this Taxable Series 2010B Bond and of the interest hereon as each becomes due.

This Taxable Series 2010B Bond is one of a series of general obligation bonds in the aggregate principal amount of \$_____ of like tenor except as to amount, maturity date, redemption provisions, interest rate and number, issued by the City to provide funds to make those certain acquisitions and public improvements approved by a majority vote of qualified electors voting at elections duly called and held in and for the City, pursuant to a resolution of the Mayor and Council of the City duly adopted prior to the issuance hereof (the "Resolution") and pursuant to the Constitution and laws of the State of Arizona relative to the issuance and sale of general obligation bonds, and all amendments thereto, and all other laws of the State of Arizona thereunto enabling.

For the punctual payment of this Taxable Series 2010B Bond and the interest hereon and for the levy and collection of ad valorem taxes on all taxable property within the City sufficient for that purpose, the full faith and credit of the City are hereby irrevocably pledged.

[Taxable Series 2010B Bonds maturing on or before July 1, 2020, are not subject to call for redemption prior to maturity. Taxable Series 2010B Bonds maturing on or after July 1, 2021, are subject to call for redemption prior to maturity, at the option of the City, in whole or in part, on any date on or after July 1, 2020, by the payment of a redemption price equal to the principal amount of each Taxable Series 2010B Bond called for redemption plus interest accrued to the date fixed for redemption, but without premium.]

The Taxable Series 2010B Bonds are subject to redemption prior to maturity at the option of the City, in whole or in part on any date in the event that the government of the United States of America evidences, in the sole judgment of the City, by action or failure to act, its unwillingness to provide for the direct payments to be made to the City in an amount equal to or greater than thirty-five percent (35%) of the interest payable on the Taxable Series 2010B Bonds on any interest payment date. The extraordinary redemption price will be the greater of (a) the principal amount of such

Taxable Series 2010B Bonds to be redeemed; or (b) the sum of the present value of the remaining scheduled payments of principal and interest to the maturity date of such Taxable Series 2010B Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which such Taxable Series 2010B Bonds are to be redeemed, discounted to the date on which such Taxable Series 2010B Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (described below) plus [100] basis points, plus accrued interest on such Taxable Series 2010B Bonds to be redeemed to the redemption date.

"Treasury Rate" means, as of the redemption date, the yield to maturity as of such redemption date of the United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two business days prior to the redemption date (excluding inflation indexed securities) (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to maturity; provided, however, that if the period from the redemption date to maturity is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

So long as the book-entry-only system is in effect, notice of redemption will be sent solely to DTC by electronic means of transmission. The registrar will notify DTC at least two (2) business days prior to a date not less than twenty (20) calendar days and no more than sixty (60) calendar days prior to the redemption date, or in the case of an advance refunding, the date that the proceeds are deposited into escrow (and, in the case of an advance refunding, an additional notice will be provided no later than twenty (20) calendar days prior to the refunding date). If the book-entry-only system is discontinued, notice of redemption of any Taxable Series 2010B Bond shall be filed with the registrar and mailed to the registered owner of the Taxable Series 2010B Bond or Taxable Series 2010B Bonds being redeemed at the address shown on the books of the registrar not more than sixty (60) nor less than thirty (30) days prior to the redemption date. Notice of redemption may be given to any securities depository by mail, facsimile, wire or other generally accepted means of transmission of such notices. Failure to properly give notice of redemption shall not affect the redemption of any Taxable Series 2010B Bond for which notice was properly given. Notice of redemption will also be sent by first class mail, facsimile or other generally accepted means of transmission to the Municipal Securities Rulemaking Board (the "MSRB"), currently through the MSRB's Electronic Municipal Market Access system.

The registrar and paying agent on the original issue date is The Bank of New York Mellon Trust Company, N.A. The registrar or paying agent may be changed by the City without notice.

So long as the book-entry-only system is in effect, this Taxable Series 2010B Bond is non-transferable. If the book-entry-only system is discontinued, this Taxable Series 2010B Bond is transferable by the registered owner in person or by attorney duly authorized in writing at the designated office of the registrar, which on the original issue date is the corporate trust office of The Bank of New York Mellon Trust Company, N.A. upon surrender and cancellation of this Taxable Series 2010B Bond. Taxable Series 2010B Bonds of this issue will be issued only in fully registered form in the denomination of \$5,000 of principal or integral multiples thereof.

The City, the registrar and the paying agent may treat the registered owner of this Taxable Series 2010B Bond as the absolute owner for the purpose of receiving principal and interest and for all other purposes and none of them shall be affected by any notice to the contrary.

The City has caused this Taxable Series 2010B Bond to be executed by the Mayor and attested by the City Clerk, which signatures may be facsimile signatures. This Taxable Series 2010B Bond is not valid or binding upon the City without the manually affixed signature of an authorized representative of the registrar. This Taxable Series 2010B Bond is prohibited from being issued in coupon or bearer form without the consent of the City and the occurrence of certain other conditions.

CITY OF TEMPE, ARIZONA

Mayor

ATTEST:

City Clerk

DATE OF AUTHENTICATION AND REGISTRATION:_____.

AUTHENTICATION CERTIFICATE

This Taxable Series 2010B Bond is one of the City of Tempe, Arizona, Taxable General Obligation Bonds, Series 2010B, (Qualified Build America Bonds – Direct Pay) described in the Resolution.

The Bank of New York Mellon Trust
Company, N.A., as Registrar

Authorized Representative

FORM OF ASSIGNMENT

The following abbreviations, when used in the inscription on the face of this bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common UNIF GIFT/TRANS MIN ACT-_____

Custodian _____

TEN ENT - as tenants by the entireties (Cust)

(Minor)

JT TEN - as joint tenants with right of survivorship under Uniform Gifts/Transfers to Minors Act

and not as tenants in common (State)

Additional abbreviations may also be used though not in list above

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Name and Address of Transferee)

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated _____

Note: The signature(s) on this assignment must correspond with the name(s) as written on the within registered bond in every particular without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

Firm or Bank

Authorized Signature

Signature guarantee should be made by a guarantor institution participating in the Securities Transfer Agents Medallion Program or in such other program acceptable to the Registrar

ALL FEES AND TRANSFER COSTS SHALL BE PAID BY THE TRANSFEROR